

1 PLANTIFF: MR. CARTER

2 WITNESS: KIM MASTERS

3 COURT:

4 DEFENDANT: MS. BAKER

5
6 WARM UP

7 THE COURT: The record may reflect that we are back
8 on the record and all parties are present.

9 MR. CARTER: Thank you, your Honor. We are ready
10 to call / our next witness if your Honor is ready.

11 THE COURT: Let's proceed.

12 MR. CARTER: Thank you, your Honor.

13 MS. BAKER: Before we do that, may I just ask a
14 question on / the exhibits?

15 THE COURT: Yes.

16 MS. BAKER: Have any of the exhibits been admitted
17 into evidence yet, or are we waiting until the end of
18 the hearing?

19 MR. CARTER: I would / prefer to wait if you have
20 no objection.

21 THE COURT: Are you moving them into evidence?

22 MS. BAKER: Not at this time. Thank you, your
23 Honor.

24 THE COURT: Let's call the / witness.

25 MR. CARTER: We would recall Kim Masters.

1 THE COURT: Step forward, ma'am. You have already
2 been sworn and you are still under oath.

3 THE WITNESS: Thank you, your Honor.

4 THE COURT: All / right.

5 Q. BY MR. CARTER: Mrs. Masters, I just had a few
6 other questions for you.

7 Would you please tell the jury when you first
8 observed the men entering / the bank.

9 A. I had been in the lobby for about ten minutes
10 and I was waiting in line to make my deposit.

11 Q. Do you recall / the time that you came to the
12 bank?

13 A. Oh, I see what you are asking. I left my work
14 around 2:00 o'clock and I must */ have gotten to the
15 bank by 2:30.

16 MS. BAKER: Objection. Speculation. Move to
17 strike.

18 THE COURT: Sustained.

19 Q. BY MR. CARTER: Do you remember what time you
20 arrived at the bank?

21 A. It / was around 2:30.

22 Q. You testified that you were in line for about
23 ten minutes before you noticed the men entering the
24 bank; is that / correct?

25 A. Yes.

26 **END OF WARM UP**

1 EXAM

2 Q. BY MR. CARTER: Now, what was the first thing
3 you observed?

4 A. Actually, I saw two people come into the bank.
5 They didn't look right.

6 Q. What do you mean / by that statement?

7 A. They looked like they didn't belong there.
8 They just looked like they walked into the wrong
9 building and they were trying to / figure out where
10 they were.

11 Q. Did the two people enter the building at the
12 same time?

13 A. Obviously, they didn't walk through the door
14 side by / side. The larger man entered first and then
15 he was immediately followed by the shorter man.

16 Q. Did you notice if they spoke to each other? /

17 A. I believe they did, but I'm not positive.

18 MS. BAKER: Objection. Move to strike.

19 THE COURT: Sustained.

20 Q. BY MR. CARTER: You need to testify to what
21 you are sure of, and not / what you believe might have
22 happened.

23 A. I understand.

24 Q. Did you overhear any conversation that the two
25 men had?

1 A. No, I didn't. Once they came in / they both
2 went to opposite sides of the room.

3 Q. Were you continuously watching them as they
4 came in?

5 A. I was standing in line facing the / door. It
6 wasn't that I was trying to watch them, but that's the
7 direction I was looking in.

8 Q. Now, you testified that they went to */
9 opposite sides of the lobby. Where did you see them
10 go?

11 A. The taller man walked over to the teller
12 window that's right by the door. / It is like an
13 express window for single transactions.

14 Q. We have this diagram here and I would like to
15 direct your attention to that?

16 A. Okay. /

17 MR. CARTER: Your Honor, may we have this exhibit
18 marked next in order?

19 THE COURT: That would be marked 9 for
20 identification.

21 MR. CARTER: Thank you.

22 MS. BAKER: Your Honor, could I approach / the
23 exhibit just to check on which one it is?

24 MR. CARTER: It is page 27 of the discovery.

25 MS. BAKER: Thank you.

26 THE COURT: Next question.

1 Q. BY MR. CARTER: Ma'am, this is the / diagram
2 that you were shown in your prior testimony, but it is
3 enlarged so we can make some marks on it. Does this
4 look familiar / to you?

5 A. Absolutely, it does. It is the lobby area of
6 the bank.

7 Q. Do you see the area depicted as the entrance?

8 A. Yes, that's correct. /

9 Q. Do you see these offices back here on the
10 diagram?

11 A. Yes, I do.

12 Q. Did you go back into that area while you were
13 there that / day?

14 A. I was only in the front area waiting to make
15 my deposit.

16 MR. CARTER: Your Honor, may the witness step down
17 and approach the diagram?

18 THE COURT: Yes. */
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1 START TYPING

2 Q. BY MR. CARTER: If you would step down, Mrs.
3 Masters.

4 A. Certainly.

5 Q. Now, indicate where you were standing when you
6 first observed the men entering the bank.

7 A. Approximately here. / There are five or six
8 windows. I was directly in front of the third window.

9 Q. Place an X where you saw the taller gentleman?

10 A. That / would be right here.

11 Q. After you saw him in that location, did he
12 remain there for a while?

13 A. He was there until the yelling started. /

14 Q. Did you happen to see where the second man
15 went after the two parted ways?

16 A. He walked down past me. I didn't watch where
17 he / was going. I naturally assumed where he was going
18 but --

19 Q. You can't testify to what you assume happened,
20 only what you actually saw or heard. /

21 A. Okay.

22 Q. We just need to maintain our record.
23 Previously, you testified you heard yelling at some
24 point in time?

25 A. Yes, I did. It was extremely / loud.
26

1 Q. What did you overhear and where did you hear
2 it coming from?

3 MS. BAKER: Objection. That's compound.

4 THE COURT: Sustained.

5 Q. BY MR. CARTER: Where did you hear the yelling
6 coming from? /

7 A. It was behind me from the back of the room by
8 where these offices are on this picture.

9 Q. What was it that you heard being */ yelled?

10 A. I heard him yelling for everybody to get on
11 the floor and to move quickly.

12 Q. What did you observe at that time?

13 A. I got / down on the floor.

14 Q. Did you turn around to see who was doing the
15 yelling before you hit the floor?

16 A. No. I looked over to / the person who was
17 remaining in the front area and he immediately started
18 yelling at us.

19 Q. What did he say?

20 A. He wanted the customers to / do what we were
21 being told.

22 Q. Did anyone in line say anything?

23 A. There was a woman beside me and she started
24 crying.

25 Q. Did you have / a conversation with that woman?
26

1 A. Not initially. I grabbed her hand and turned
2 around quickly to the ground.

3 Q. Explain why you took her hand?

4 A. I / just wanted her to calm down and I was
5 afraid she wasn't going to move. I wanted her to come
6 to the floor with me, / and she did.

7 Q. Do you happen to remember how many people were
8 in the lobby when this was happening?

9 A. There were only half a dozen / people in line.
10 There were only two or three windows open with
11 customers being helped when the robbers came in.

12 Q. Could you estimate how many */ employees were
13 in the lobby?

14 A. Oh, no, I wouldn't have any way of knowing
15 that. There were the tellers behind the counter and a
16 couple / people to my left sitting at a counter. I
17 don't really remember how many, though.

18 Q. Now, you testified there was a certain point
19 in time / when you realized there were more people who
20 had come into the bank to rob it; is that correct?

21 A. There were actually five people telling / us
22 what to do by the time they were collecting the money
23 from people.

24 Q. Did you notice when the others entered the
25 lobby?

1 A. No, I / didn't personally see them enter. I
2 had my head down and wasn't watching the entrance or
3 anything.

4 Q. How did you know there were several more /
5 people there?

6 A. The taller robber came around and said he
7 wanted people to give his partner whatever we had in
8 our possession. There was a / person with a bag and we
9 were supposed to empty our hands.

10 Q. What did you have in your hands?

11 A. I had my wallet and my / checkbook.

12 Q. You testified you were making a deposit. Were
13 you depositing a check or cash?

14 A. I had cash to deposit that day. I usually use
15 */ the ATM machine for deposits, but not for cash.

16 Q. Is that why you were inside the building that
17 afternoon?

18 A. Exactly. I don't usually / go inside, but I
19 had cash.

20 Q. How much money did you have?

21 MS. BAKER: Objection. Irrelevant.

22 THE COURT: Overruled.

23 You may answer.

24 THE WITNESS: I had \$300.

25 Q. BY MR. CARTER: Did somebody / come around to
26 collect your wallet and possessions?

1 A. Correct.

2 Q. Do you remember if that was a man or a woman?

3 A. I actually thought it was / a woman, but it
4 was a man.

5 Q. Why do you believe it was a man?

6 A. He spoke to me and it sounded like a man. /
7 He was dressed like a man, also.

8 Q. Why did you presume it was a woman initially?

9 A. Just the size. He was very petite compared to
10 / the other robbers and I just assumed it was a slender
11 woman.

12 Q. Did you see his face when he took your money?

13 MS. BAKER: Objection. Assumes facts / not in
14 evidence.

15 MR. CARTER: Your Honor, I can rephrase the
16 question.

17 THE COURT: All right. The question is withdrawn.

18 Q. BY MR. CARTER: Did that person remove the
19 \$300 you / had in your possession?

20 A. Yes, that's correct.

21 Q. Did he also take your wallet from your person
22 while you were laying on the ground?

23 A. That's correct. */

24 Q. Did you observe this person's face as he took
25 the money from your hand?

1 A. Not really. Only the profile of his face. He
2 was talking / to me, but was looking away from me.

3 Q. Were you laying directly on your stomach or on
4 your back?

5 A. Laying on my stomach. I wasn't / looking
6 around very much while they were robbing people.

7 Q. Now, were you able to observe if the other
8 people in line were also relieved of / their money or
9 wallets or anything like that?

10 A. I heard the man saying things to people behind
11 me in line, but I didn't turn around / to actually
12 observe it.

13 Q. What did you hear being said?

14 A. I heard him asking for wallets and purses and
15 things like that. I heard him / telling people to give
16 him whatever they had.

17 Q. Did you overhear anybody in line make any
18 comments to the person who had taken your money? /

19 A. Not really. The woman next to me was just
20 crying and didn't really say anything, but she was
21 crying.

22 Q. Did you see her hand over / any money to any
23 of the people in the bank?

24 A. I might have, but I really don't remember now.
25 Sorry. I was really just trying */ to keep myself
26 quiet.

1 MR. CARTER: No further questions at this time,
2 your Honor.

3 THE COURT: All right. How long do you estimate
4 for your cross-examination?

5 MS. BAKER: Not long, your / Honor. I just have a
6 few questions.

7 THE COURT: Well, let's proceed with that at this
8 time, then. We will take a recess when you are
9 finished. /

10 MS. BAKER: All right. Thank you.

11 THE COURT: Proceed.

12 Q. BY MS. BAKER: Mrs. Masters, you have
13 previously identified my client as the man who was
14 standing by the back offices and doing / some yelling;
15 is that correct?

16 A. Yes, I have. He was the second robber that
17 came into the bank that I saw.

18 Q. What do you remember / observing about him as
19 he entered the lobby that afternoon?

20 A. He was shorter than the first person. That
21 was the very first thing I noticed. /

22 Q. What else do you remember about him?

23 A. I don't understand what you mean.

24 Q. What do you remember about the second man that
25 you saw enter / the lobby.

26 A. He was short.

1 Q. All right. You testified before that you
2 heard yelling behind you in line?

3 A. That's correct.

4 Q. You believe it was the / second person who
5 came into the bank who was doing the yelling?

6 A. Definitely. It was the robber who walked past
7 me to the back of */ the offices.

8 Q. After he walked past you, did you ever observe
9 him again that afternoon?

10 A. I don't remember.

11 Q. You testified he walked past you to / the back
12 and that you were facing the entrance; is that correct?

13 A. Yes, it is.

14 Q. After he was out of your line of vision, you /
15 couldn't really see what happened to him; is that
16 correct?

17 A. Well, he walked to the back where the offices
18 were and started yelling.

19 Q. Before you / witnessed that person in the
20 lobby that afternoon, had you ever met him before?

21 A. Of course not.

22 Q. Had you had any conversations with him in /
23 the past?

24 A. Never.

25 Q. You had never spoken to him; is that correct?

26 MR. CARTER: Objection. Asked and answered.

1 THE COURT: Well, overruled at this time.

2 Q. BY MS. BAKER: Had you ever spoken / to my
3 client before that afternoon?

4 A. No.

5 Q. So you would have no way of knowing what his
6 voice sounded like; is that correct?

7 A. Not before / I heard it that afternoon, no.

8 Q. You testified you heard yelling from behind?

9 A. Absolutely.

10 Q. Why is it you assume it was my client doing
11 the / yelling?

12 A. They both came into the lobby and they were
13 both yelling that it was a robbery.

14 Q. Who said it was a robbery?

15 A. The robber */ at the front door. He announced
16 it was a robbery and we needed to move quickly.

17 Q. After you believed it was a robbery, did you /
18 turn around to notice where the other person had gone?

19 A. I was already on the carpet when I overheard
20 that. We believed it was a / robbery before he told
21 us.

22 Q. You testified there were other people who
23 entered the bank. They appeared to be associated with
24 this first person; is / that correct?

25 A. Yes.

1 Q. You weren't positive when they came in; is
2 that correct?

3 A. All I remember is there were approximately
4 about five of them and / they were taking money from
5 people.

6 Q. Did you observe the tellers handing over the
7 money from behind the counter?

8 A. No, but I overheard the robbers / telling them
9 to empty their drawers and to hand over the money.

10 Q. This is not something that you actually saw,
11 though?

12 A. No, just something I / overheard.

13 Q. Now, do you believe these other people entered
14 the bank after you were already on the floor?

15 A. You know, I am not certain. I / remember two
16 coming in, and then I kind of watched the taller person
17 at the front for a minute. I probably turned around to
18 the */ tellers to see if it was finally my turn.

19 Q. You don't remember after the tall person came
20 in seeing anybody else enter later?

21 A. There was / only the shorter guy behind him.
22 They arrived together, and then I quickly looked away
23 from the entrance.

24 Q. You testified they didn't come through the /
25 door side by side; is that correct?

26 A. They were together.

1 Q. But, they didn't walk in next to each other;
2 is that correct?

3 A. That's correct.

4 Q. How / do you know they were together?

5 A. They looked like they were together. They
6 both looked the same.

7 Q. Earlier you related they looked lost, like
8 maybe / they were in the wrong building. Which
9 gentleman expressed that feeling?

10 A. These people were not lost. I simply meant
11 that they looked extremely nervous, like / they didn't
12 know if this was going to work out or not.

13 MS. BAKER: Objection, your Honor.
14 Nonresponsive to my question. Move to strike.

15 THE COURT: The answer is / stricken.

16 Q. BY MS. BAKER: Do you need to have the
17 question repeated?

18 A. Yes, please.

19 Q. Which gentleman looked lost?

20 A. They both appeared nervous.

21 Q. Was it their expression that caused / you to
22 keep watching the taller gentleman?

23 A. Maybe. I don't know. I don't believe they
24 were really lost. They looked very out of place there.

25 */

1 Q. What did you think that they were coming in
2 for?

3 A. I didn't give it much thought. It was only a
4 minute or so and the / yelling started up. I knew
5 immediately why they were there.

6 Q. I just want to make sure that I understand
7 your testimony clearly. You didn't have / any
8 conversation with my client that day; is that right?

9 A. That's correct.

10 Q. You didn't observe him taking any money from
11 anybody; is that right?

12 A. That's / correct.

13 Q. You don't know for sure that he was at the
14 bank with the taller gentleman, you just saw them come
15 in about the same / time?

16 A. They came in together and they appeared like
17 they were together.

18 Q. You didn't see my client in the bank after he
19 walked past you; / is that correct?

20 A. That's correct.

21 MS. BAKER: Nothing further, your Honor.

22 THE COURT: Anything further?

23 MR. CARTER: Yes, please.

24 THE COURT: All right.

25 Q. BY MR. CARTER: Mrs. Masters, thank you for
26 your patience with us.

1 A. No / problem. I understand.

2 Q. When you saw the five men robbing the bank,
3 did you see any of the men talking to each other or
4 working / together?

5 MS. BAKER: Objection. Vague.

6 THE COURT: Sustained.

7 Q. BY MR. CARTER: Did you hear any conversation
8 between the first two men who came into the bank?

9 A. Once the yelling started, I did. */

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11 -o0o-